



Tax dispute resolution and the principle of justice: A normative juridical analysis of the Indonesian tax court system

Norma Rani Kusumawardhani Zoulba, Budi Ispriyarso

Master of Law Program, Faculty of Law, Universitas Diponegoro, Semarang, Indonesia

DOI: <https://doi.org/10.66856/ijl.2026.12.4.12339>

Abstract

Tax disputes test whether the state's power to collect revenue can coexist with taxpayers' right to contest assessments, yet Indonesia's system suffers from lengthy proceedings and a Tax Court divided between two overseers. Constitutional Court Decision No. 26/PUU-XXI/2023 now requires consolidation under the Supreme Court by 31 December 2026. This study examines whether the norms on objection, appeal, and the Court's institutional position realise justice, and formulates a normative reconstruction. A normative juridical method combining statute, case, and conceptual approaches is applied to Law No. 14 of 2002, Law No. 48 of 2009, the constitutional decision, and scholarly literature. Findings show strong procedural guarantees of hearing, evidence, and reasoned decisions, but access is constrained by a fifty percent payment requirement, continued collection, a *keberatan* stage within the assessing authority, and extendable time limits. The transfer to the Supreme Court removes the structural conflict of interest, yet impartiality also depends on objection reform, judicial competence, and statutory harmony. The study concludes that justice is better secured in text than in practice, and recommends integrated statutory harmonisation, transitional safeguards, a proportionate payment rule, defined extension grounds, a legal basis for electronic hearings, and further empirical research.

Keywords: Tax Court, tax dispute resolution, judicial independence, one-roof system, legal certainty

Introduction

Tax disputes are an unavoidable consequence of modern fiscal systems, in which the state's power to collect revenue inevitably meets the taxpayer's right to contest an assessment. Where tax legislation is complex and administrative discretion is broad, disagreements over tax subjects, objects, and rates multiply. The way they are settled determines whether taxation is experienced as a legitimate legal relationship or as a coercive burden. A specialised tax court is therefore expected to offer an impartial forum, protect legal certainty, and turn the abstract ideal of fiscal justice into binding decisions. Yet such institutions are constrained by the intricacy of tax rules, limited resources, and uneven transparency (Anggraeni, 2023) ^[1].

In Indonesia, these tensions are visible in both the volume and the duration of litigation. Tax disputes reportedly rose from 23,218 cases in 2018 to 41,224 in 2022, with a projection of 63,320 cases by 2026. An analysis of 16,223 cases from 2016 to 2023 ^[2] recorded an average resolution time of 567 days, with substantive disputes making up more than ninety-eight percent of the caseload (Putra, 2025) ^[15]. Delay of this magnitude sits uneasily with the principle of simple, swift, and low-cost justice, and the Tax Court's capacity to realise that principle has been questioned in the literature (Sasanti & Indah, 2022) ^[17]. Institutionally, the Tax Court exercises judicial power within the state administrative jurisdiction, yet its development has been divided between the Supreme Court and the Ministry of Finance. Scholars argue that this dual oversight weakens its independence and creates juridical uncertainty, because the Tax Court Law, the Judicial Power Law, and the General Provisions and Tax Procedures Law are normatively disharmonious (Ibnususilo *et al.*, 2025) ^[7]. Constitutional Court Decision Number 26/PUU-XXI/2023 ^[11] responded by requiring the Tax Court to be consolidated under the

Supreme Court by 31 December 2026, which has made the Court's position within the judicial structure a pressing legal question (Moningka & Rasji, 2023) ^[11].

Existing studies have approached these problems from separate angles. Some examine administrative sanctions during objection and appeal, whose application under the Tax Harmonisation Law may still burden taxpayers who are asserting their rights (Tjahjadi *et al.*, 2025) ^[21]. Others analyse the reorganisation of the Tax Court within the state administrative judiciary after the 2023 ^[1] constitutional ruling (D. S. Negara *et al.*, 2023) ^[2], or the legal protection available to taxpayers within the dispute mechanism (Nugroho *et al.*, 2023) ^[14]. What remains underexplored is an integrated normative assessment that tests the whole architecture of tax dispute resolution (objection, appeal, and the institutional setting of the Tax Court) against the principle of justice. Independence, efficiency, and taxpayer protection are still largely treated as isolated themes.

The novelty of this article lies in its justice-centred doctrinal approach. It links the post-2023 ^[12] transition to a one-roof system with procedural fairness, timeliness, and access to justice, and asks whether existing norms can deliver substantive justice rather than mere structural alignment. Instead of merely describing institutions, the study uses a normative juridical method to formulate reasoned propositions for reconstructing the legal framework of the Indonesian Tax Court system.

Based on the foregoing background, this study addresses three questions. First, how does the existing normative framework governing tax dispute resolution in Indonesia, from objection to appeal before the Tax Court, give effect to the principle of justice? Second, to what extent do the institutional position and independence of the Tax Court, particularly after Constitutional Court Decision Number 26/PUU-XXI/2023 ^[11], guarantee the fair adjudication of tax disputes? Third, what normative reconstruction is required

to align the Tax Court system with the principles of justice, legal certainty, and expedient dispute resolution?

In line with these problems, the research pursues three objectives. First, it analyses how the prevailing statutory provisions and legal doctrines on tax dispute resolution embody the principle of justice at the objection and appeal stages. Second, it evaluates whether the current institutional design of the Tax Court, including its transition toward Supreme Court oversight, secures judicial independence and impartiality in practice. Third, it formulates a normative reconstruction that harmonises overlapping regulations and strengthens fairness, certainty, and efficiency in resolving tax disputes in Indonesia.

Theoretically, this research enriches tax law scholarship by offering a coherent justice-based framework for assessing dispute-resolution institutions. It also contributes to debates on judicial independence and the position of specialised courts within the national judicial system. Practically, the findings may guide legislators and the Ministry of Finance in harmonising tax-procedural and judicial-power legislation. They may help the Supreme Court and the Tax Court design transition policies that safeguard impartiality and reduce delay. They may also give taxpayers, tax consultants, and legal practitioners a clearer understanding of their rights and available remedies, so that tax disputes are resolved more predictably and fairly.

Method

This study adopts a normative juridical method, which treats law as a system of norms and examines it through written legal materials rather than field observation (T. A. S. Negara, 2023) ^[2]. The method suits the research questions, which concern the substance, coherence, and justice orientation of the rules governing objection, appeal, and the institutional position of the Tax Court, not the behaviour of litigants. Three approaches are combined. The statute approach inventories and tests the relevant provisions, notably Law Number 14 of 2002 on the Tax Court, Law Number 48 of 2009 on Judicial Power, and the General Provisions and Tax Procedures Law as amended by the Tax Regulation Harmonisation Law. Their hierarchy, consistency, and scope are assessed through the maxims *lex superior derogat legi inferiori* and *lex specialis derogat legi generali*. The case approach examines Constitutional Court Decision Number 26/PUU-XXI/2023 ^[11], focusing on its ratio decidendi and the transitional deadline it sets. The conceptual approach draws on doctrines of justice, legal certainty, judicial independence, and simple, swift, and low-cost adjudication to build the standards against which these norms are evaluated.

Legal materials fall into three tiers. Primary materials comprise the 1945 Constitution, statutes, implementing regulations, and binding judicial decisions. Secondary materials consist of textbooks and peer-reviewed articles that explain or critique those sources, including the studies cited in the Introduction. Tertiary materials, such as legal dictionaries and encyclopaedias, clarify terminology. All materials were collected through library research (*studi kepustakaan*) from official legal databases, university repositories, and indexed journals, and were screened for authority, currency, and relevance to the research problems. The analysis is qualitative and prescriptive, and proceeds in four steps. First, the materials are inventoried and grouped by theme: objection, appeal, and institutional design. Second, they are interpreted grammatically, systematically,

and teleologically to uncover the ratio legis behind each provision and to detect overlaps, gaps, or normative conflicts. Third, the interpreted norms are measured against the justice-based standards derived from the conceptual approach, asking whether each norm secures procedural fairness, timeliness, and access to justice. Fourth, the findings are synthesised through deductive reasoning, moving from general principles to the specific provisions examined, and are used to formulate propositions for normative reconstruction. Matching the chosen approaches to the research type and data in this way keeps the analysis within the normative orientation of the study and keeps every conclusion traceable to identifiable legal sources (Hamzani *et al.*, 2024) ^[5].

Result and Discussion

a. The Normative Framework of Tax Dispute Resolution and the Realisation of Justice Architecture of Objection and Appeal

Tax disputes in Indonesia originate in the self-assessment system, under which taxpayers calculate, pay, and report their own tax while the fiscal authority examines the returns, so that disagreement over the examination results becomes the seed of the dispute (Hanifa *et al.*, 2024) ^[6]. The statutory definition of a tax dispute is a conflict between a taxpayer or tax bearer and an authorised official, caused by a decision that may be challenged through *banding* (appeal) or *gugatan* (lawsuit). The two remedies are treated as separate instruments with different targets (Law No. 14 of 2002, Art. 1(5)–(7)). An appeal may in principle be lodged only against an objection decision (*keberatan*), unless another tax statute provides otherwise, whereas a *gugatan* addresses the execution of tax collection and other specified decisions such as rectifications (Undang-Undang Republik Indonesia, 2002) ^[22].

The dispute path therefore consists of three layers. The first is an administrative filter, the objection, decided within the tax authority itself. The second is judicial review by the *Pengadilan Pajak* (Tax Court), which acts as a court of first and final instance (Law No. 14 of 2002, Art. 33(1)). The third is an extraordinary remedy, *peninjauan kembali* (case review), before the Supreme Court. The first layer is where legitimacy is most contested. The objection procedure has been characterised as quasi-judicial because the body that decides it belongs to the same institution that issued the assessment, and because the law allows up to twelve months for the objection decision, the whole path from the start of an audit to that decision may reach twenty-one months (Marmiyati *et al.*, 2025) ^[10]. Comparative evidence points the same way: the objection process tends to side with the government and is therefore not independent from the taxpayer's perspective, which in Japan's experience was addressed by creating a body separate from the assessing authority (Ardin, 2023) ^[2].

The judicial layer is procedurally tight. An appeal must be filed within three months of receipt of the contested decision, with clear reasons and a copy of the decision attached, and only one appeal letter may be filed against one decision, although a late filing may be considered where the delay was beyond the appellant's control (Law No. 14 of 2002, Arts. 35–36). A lawsuit against a collection action must be filed within fourteen days of the action and a lawsuit against other decisions within thirty days of receipt (Law No. 14 of 2002, Art. 40(2)–(3)). The Court then requests the respondent's reply, and the respondent has three

months for an appeal (Surat Uraian Banding) or one month for a lawsuit (Surat Tanggapan), after which the appellant may submit a rebuttal (Surat Bantahan) within thirty days (Law No. 14 of 2002, Arts. 44–45). The panel must begin hearing within six months of receipt of the appeal letter, or three months for a lawsuit, and must decide within twelve months for an appeal and six months for a lawsuit, each extendable by up to three months in special cases (Law No. 14 of 2002, Arts. 48 and 81).

A Tax Court decision is final and binding, and no further lawsuit, appeal, or cassation is available against it (Law No. 14 of 2002, Arts. 77(1) and 80(2)). The only recourse is a single review application to the Supreme Court on enumerated grounds, filed within three months and decided within six months in ordinary proceedings or one month in fast-track proceedings (Law No. 14 of 2002, Arts. 89–93). This is consistent with the general law of judicial power, which allows cassation against appellate decisions “unless a statute provides otherwise” (Law No. 48 of 2009, Art. 23). The absence of cassation in the tax setting is thus a legislated exception and not a deviation. The explanatory memorandum of Law No. 14 of 2002 gives the rationale: because tax is central to state revenue, vertical re-examination should be brief, since additional tiers risk repeating a full examination.

Judged by its own purpose, the architecture is coherent at the judicial level, because the proceedings aim to be fair, fast, cheap, and simple, which mirrors the general principle of judicial administration (Law No. 48 of 2009, Art. 2(4)). The compression of the judicial tier does not, however, compress the whole dispute path. The administrative objection stage lengthens the journey and weakens perceived neutrality, which is why the objection procedure has been criticised as inefficient in time, effort, and cost (Marmiyati *et al.*, 2025) ^[10]. The framework is therefore efficient where the statute intervenes, but it leaves the most partial segment of the path outside the design.

Procedural Fairness and Timeliness

Against the classic components of procedural fairness, the text of Law No. 14 of 2002 is relatively strong. The right to be heard is protected through several provisions. The appellant or plaintiff may notify the Chair of an intention to attend and give oral explanations, the presiding judge must summon the respondent and may summon the appellant, and the panel questions the respondent on points raised in the appeal letter and the rebuttal (Law No. 14 of 2002, Arts. 46

and 53–54). The explanatory memorandum adds that new facts raised by the respondent at trial must be communicated to the appellant for an answer. The right to present evidence is likewise broad. Admissible evidence includes documents, expert statements, witness testimony, party admissions, and the judge’s knowledge, the Court follows a free-evidence principle, and the judge determines the subject of proof, the burden of proof, and its assessment, with at least two items of evidence required for validity (Law No. 14 of 2002, Arts. 69 and 76).

The duty to give reasons is built into the form of the decision. A decision must contain an assessment of each item of evidence, the legal grounds, and the operative part, and a decision that omits required elements is invalid and must be re-heard (Law No. 14 of 2002, Art. 84(1)–(2)). It must be pronounced in open court, and a panel member’s dissent must be recorded (Law No. 14 of 2002, Arts. 79(2) and 83). These rules echo the general requirements that judicial decisions state their legal reasoning and that courts give the public access to information about decisions and costs (Law No. 48 of 2009, Arts. 50, 52(1), and 53(2)). The procedural guarantees are therefore not the weak point of the statute.

The weak points lie in the conditions attached to access. An appeal against the amount of tax owed is admissible only after the taxpayer has paid fifty percent of the disputed amount, and a lawsuit does not suspend collection except in very urgent circumstances (Law No. 14 of 2002, Arts. 36(4) and 43(1), (4)). The legislature’s compensation for these burdens is *ex post*. If the appeal succeeds in whole or in part, the overpayment is refunded with interest at two percent per month for up to twenty-four months, and officials who fail to implement a decision within thirty days face personnel sanctions (Law No. 14 of 2002, Arts. 87–88). In addition, the Court may increase the tax payable (Law No. 14 of 2002, Art. 80(1)(c)), which the Constitutional Court itself identified as one of the peculiarities of this forum (Constitutional Court Decision No. 26/PUU-XXI/2023 ^[3], para. 3.12.2). These features sit uneasily with the courts’ duty to help justice seekers overcome obstacles to simple, fast, and low-cost proceedings (Law No. 48 of 2009, Art. 4(2)).

On timeliness, the statutory clock is explicit. Table 1 lines up each stage with its normative limit, its fairness function, and the tensions identified in the literature. It relies on the statutory limits and on the findings of the cited studies, not on case-load statistics from outside the provided sources.

Table 1: Normative Time Limits in Tax Dispute Resolution and Their Fairness Implications

Stage	Governing norm	Normative limit or condition	Fairness function	Tension identified
Objection (keberatan)	Tax procedure law	Up to 12 months for the authority’s decision	Internal correction before litigation	Adjudicator belongs to the disputing institution; total path of about 21 months from audit start
Filing appeal (banding)	Law No. 14/2002, Arts. 35–36	3 months from receipt; 50% payment if the amount is disputed	Certainty of filing; protection of revenue	Payment barrier to access
Filing lawsuit (gugatan)	Law No. 14/2002, Arts. 40, 43	14 or 30 days; no automatic suspension of collection	Rapid challenge to enforcement	Very short window; enforcement continues
Respondent’s reply and rebuttal	Law No. 14/2002, Arts. 44–45	3 months (appeal) or 1 month (lawsuit); 30 days for rebuttal	Equality of arms	Long replies add to total duration
Start of hearing	Law No. 14/2002, Art. 48	6 months (appeal); 3 months (lawsuit)	Timely access to a hearing	Fixed point not tied to case complexity
Decision	Law No. 14/2002, Art. 81	12 months (appeal) or 6 months (lawsuit), each extendable by 3	Legal certainty	Open-ended “special cases” allow variable delay

		months		
Case review	Law No. 14/2002, Arts. 89–93	Filing within 3 months; decision in 6 months or 1 month	Correction of grave error	Scope of access affected by later constitutional rulings
Execution and refund	Law No. 14/2002, Arts. 87–88	30 days to implement; 2% monthly interest up to 24 months	Effective remedy	Remedy is financial and delayed

Note: Compiled from Law No. 14 of 2002; Marmiyati *et al.* (2025); Listanti (2025); Ardin (2023) ^[2, 10].

Two observations follow from Table 1. First, the statute binds the Court to a clear sequence but allows extension at precisely the stage where complexity is most likely, the decision stage, so that the normative timeline functions more as a ceiling than as a guarantee. Second, the cumulative path from audit to objection to Tax Court can exceed what any single provision suggests, a pattern that has been tied to the proportion of objection cases that are later appealed and that rose sharply during the pandemic year of 2020 (Ardin, 2023) ^[2].

The technological response is the electronic hearing. The E-Tax Court offers time and cost efficiency, easier access, and greater transparency and accountability, yet it remains constrained by infrastructure, human-resource readiness, and limited regulation of its implementation (Donatianus & Rahayu, 2024) ^[4]. The point matters in a system where the Court sits in the capital and may hold hearings elsewhere only when deemed necessary (Law No. 14 of 2002, Arts. 3–4). The statute thus enables geographic flexibility but does not provide for electronic proceedings as such.

A final aspect of timeliness is the absence of consensual routes. The general law recognises arbitration and alternative dispute resolution only for civil disputes (Law No. 48 of 2009, Arts. 58–60), and Law No. 14 of 2002 contains no settlement procedure. Alternative dispute resolution can ease backlogs and preserve relationships between disputants, although tax disputes are a public concern and the legal structure for ADR is therefore difficult to design (Usmani *et al.*, 2024) ^[24]. This finding signals both the potential and the design challenge for Indonesia, taken up in Section 1.3.

Legal Certainty and Discussion: Justice in Text versus Justice in Operation

The principal obstacle to legal certainty lies less in the Tax Court's procedural code than in its relationship with the general law of judicial power. Comparing Law No. 14 of 2002 with Law No. 48 of 2009 reveals three disharmonies.

The first concerns organisation, administration, and finance. Law No. 48 of 2009 places the organisation, administration, and finance of the Supreme Court and the courts beneath it under the Supreme Court's authority and gives the Supreme Court supreme supervision over administrative and financial tasks (Law No. 48 of 2009, Arts. 21(1) and 39(2)), whereas Law No. 14 of 2002 assigns these matters to the Ministry of Finance (Law No. 14 of 2002, Art. 5(2)). The second concerns oversight of judges. The general law provides for external supervision by the Judicial Commission (Law No. 48 of 2009, Art. 40), while the tax statute constitutes the Honour Council of Judges by presidential decision on the joint proposal of the Chief Justice and the Minister (Law No. 14 of 2002, Art. 16(1)). The third concerns classification. The explanatory memorandum to Law No. 48 of 2009 places the tax court in the administrative jurisdiction (Law No. 48 of 2009, Art. 27(1) and its elucidation), while Law No. 14 of 2002 describes the Tax Court only as a judicial body exercising judicial power for those seeking justice in tax disputes (Undang-Undang Republik Indonesia, 2009) ^[23].

The conventional doctrinal tools resolve these conflicts only in part. *Lex superior derogat legi inferiori* does not decide between two statutes of equal rank, and it becomes relevant only when each statute is measured against the 1945 Constitution, which is what the Constitutional Court ultimately did. *Lex specialis derogat legi generali* justifies genuine procedural peculiarities such as final first-instance jurisdiction and fifty-percent payment, because the legislature explained the need for tax-specific procedure, but it cannot shelter an institutional arrangement that conflicts with the constitutional guarantee of independent judicial power. Law No. 48 of 2009 is also the later statute, which supports applying *lex posterior derogat legi priori* to points of direct conflict. The doctrinal difficulty is compounded by the fact that the Tax Court's position within the judicial system is not stated explicitly, so the dualism of regulation is out of step with the reform agenda of unifying court administration and leaves the concept of a single roof uncertain (Syahrin, 2021) ^[20]. At the constitutional level, unlike the administrative court, the Tax Court lacks explicit recognition in the constitutional text (Setiyaji & Abdillah, 2024) ^[18].

Legal certainty has a second dimension, concerning remedies. Restricting the tax authority's ability to seek review after a later Constitutional Court ruling may reduce legal certainty and hinder the correction of judicial errors, with potential harm to state revenue (Listanti, 2025). Certainty is therefore not only a matter of institutional position but also of the symmetry of procedural rights.

On the question whether the norms produce substantive or merely procedural justice, the findings support a qualified answer. Procedurally, the text meets the standards of hearing, evidence, reasoning, and publicity. Substantively, justice depends on how the judge uses the powers that the statute confers. Judges acting as *dominus litis*, active controllers of the trial who weigh social and economic aspects of a dispute, can pursue substantive justice beyond legal formalities, provided that their competence in tax law is adequate (Setiyaji & Martanto, 2023) ^[19]. The statute supports this reading, because the judge determines what must be proven, the burden, and the assessment, and the explanatory memorandum frames the aim as material truth not limited to what the parties present (Law No. 14 of 2002, Art. 76 and its elucidation).

Three conditions nevertheless limit the translation of text into substantive justice. Access is conditioned by the payment requirement. The administrative filter before the Court is perceived as partial. And the Court's organisational dependence on the Ministry of Finance, examined in Section 1.2, qualifies the independence on which any substantive judgment ultimately relies. The normative framework therefore delivers justice in text more reliably than justice in operation, and the three limits are linked, since the institutional proximity to the fiscal authority that weakens the objection stage also shaped the Court's organisational design.

b. Institutional Position and Judicial Independence of the Tax Court after Constitutional Court Decision No. 26/PUU-XXI/2023 ^[3]

The Dual-Oversight Model before the Decision

Before the Constitutional Court's ruling, Law No. 14 of 2002 divided guidance of the Tax Court between two institutions. The Supreme Court conducted technical judicial guidance, and the Ministry of Finance (then the Department of Finance) conducted organisational, administrative, and financial guidance, with the proviso that neither form of guidance could reduce the judges' freedom in examining and deciding disputes (Law No. 14 of 2002, Art. 5(1)–(3)). The Supreme Court additionally held general guidance and supervision over judges (Law No. 14 of 2002, Art. 11(1)).

The practical reach of the ministerial role was wider than the label “administrative guidance” suggests. Judges were appointed by the President from a list proposed by the Minister after the approval of the Chief Justice, for five-year terms renewable once, and proposals for dismissal likewise came from the Minister with the Chief Justice's approval (Law No. 14 of 2002, Arts. 8, 13–14, and 17). Allowances were set by ministerial decree, the secretariat staff were civil servants within the Ministry of Finance, and clerks were appointed and dismissed by the Minister, with only their technical guidance falling to the Supreme Court (Law No. 14 of 2002, Arts. 22(2), 25(1), and 29(4)–(5)). The Constitutional Court itself observed that the Minister's role in proposing and dismissing judges reduced their freedom in deciding tax disputes (Constitutional Court Decision, 2023) ^[3].

The consequences for independence have been analysed along the lines of benefits and risks. A dualistic guidance system offers a variety of approaches, but it also creates the potential for conflict, legal uncertainty, and waste of resources, which makes coordination between the Supreme Court and the Ministry of Finance essential (Yunus, 2023) ^[25]. The historical dimension adds that the Tax Court has been restructured repeatedly from the colonial period to the reform era as tax policy evolved, so that the dualism is a product of institutional layering and not a single design choice (Hanifa *et al.*, 2024) ^[6]. Critics also observe that the dualism is inconsistent with a reform agenda that requires the unification of the development of all courts, including judges and registrars (Syahrin, 2021) ^[20].

The most serious concern is the potential conflict of interest. The definition of “authorised official” under Law No. 14 of 2002 includes the Director General of Taxes and the Director General of Customs and Excise, and the Minister referred to throughout the statute is the Minister of Finance (Law No. 14 of 2002, Art. 1(1) and (19)). The department that houses the principal respondent in tax disputes thus also administers the court that hears those disputes. This pattern parallels the concern raised about the objection stage, where the executive is a party to the dispute at the administrative stage and, before the decision, was also the institutional overseer of the forum at the judicial stage (Ardin, 2023) ^[2]. Independence was therefore constrained by the architecture of the statute and not only by individual conduct, which is the logic the Constitutional Court later adopted.

Case Analysis of Decision No. 26/PUU-XXI/2023 ^[3]

The application was filed by three petitioners (an advocate, a lecturer, and a researcher who is also secretary general of a research centre) and registered as Case No. 26/PUU-XXI/2023. It challenged Article 5(2) of Law No. 14 of

2002, specifically the phrase “Department of Finance”, using Articles 1(3), 24(1), 24(2), and 28D(1) of the 1945 Constitution as the touchstone. The primary petition sought a declaration that the phrase was conditionally unconstitutional unless read as “Supreme Court”, and the alternative petition sought a declaration that the whole law was conditionally unconstitutional until a new tax court law was enacted, with a three-year deadline for legislators (Constitutional Court Decision No. 26/PUU-XXI/2023 ^[3], Part IV).

The Court first resolved the threshold questions. It held that it had jurisdiction, that the second petitioner lacked standing, and that the first and third petitioners had standing. It also considered whether Article 5(2) could be tested again, given that it had been examined in Cases No. 10/PUU-XVIII/2020 and No. 57/PUU-XVIII/2020. Because those cases had been declared inadmissible without reaching the merits, and the grounds of the present application differed, the repeated-review bar was not triggered (Constitutional Court Decision No. 26/PUU-XXI/2023 ^[3], paras. 3.10–3.11).

On the merits, the ratio decidendi can be reconstructed in four steps. The first is the principle that independent judicial power is a fundamental element of the rule of law, especially where disputes arise between the state and its citizens (para. 3.12.1). The second is that the Tax Court is a special court that has been placed, since the 2004 reforms, within the administrative jurisdiction under the Supreme Court, and it has special features: divided guidance, no appeal or cassation, distinct review grounds, the power to increase tax, and a seat only in the capital (para. 3.12.2). The third is that dividing guidance between two institutions mixes judicial and non-judicial guidance that cannot be separated, allowing another institution to influence the Court's tasks even when the influence concerns only organisation, administration, and finance (paras. 3.12.2–3.12.3). The fourth is that the ideal of a one-roof system had already been signalled in the Court's earlier Decision No. 6/PUU-XIV/2016 and in a draft bill that foresaw a gradual transfer, yet it had not been realised, so the Court considered it justified to fix a definite deadline (paras. 3.12.4–3.13). The Court concluded that Article 5(2) created legal uncertainty and injustice, but since its own reading differed from the one the petitioners requested, the application succeeded only in part (para. 3.14).

The operative part declared the phrase “Department of Finance” in Article 5(2) contrary to the Constitution and without binding force unless interpreted as “the Supreme Court, implemented gradually at the latest by 31 December 2026”. Article 5(2) therefore now provides that organisational, administrative, and financial guidance of the Tax Court is carried out by the Supreme Court, gradually and at the latest by 31 December 2026, and the remainder of the application was rejected (Constitutional Court Decision No. 26/PUU-XXI/2023 ^[3], Part 5).

The ruling also fits the structure of the general law. Law No. 48 of 2009 already prohibits interference in judicial affairs and places the organisation, administration, and finance of the courts beneath the Supreme Court under that Court's authority (Law No. 48 of 2009, Arts. 3(2) and 21(1)). By reading these provisions into the Tax Court statute, the Constitutional Court harmonised the Tax Court with a rule that already applies to the other courts under the Supreme Court. The consolidation deadline is the decision's most consequential element for the Tax Court's institutional

position, because it converts what had been an exhortation to legislators in an earlier decision into a dated obligation. The decision has been read as reinforcing the separation of powers and the checks and balances enshrined in the 1945 Constitution, with the caveat that further reforms are needed to eliminate remaining executive influence (Khalimi, 2025). It has also been read as a move from a dual to a unified system that enhances impartiality and aligns the Court with Montesquieu's insistence on separating judicial power from the executive and the legislature (Regika *et al.*, 2024) ^[16].

Independence in the Transition and Discussion: Structural Alignment versus Substantive Adjudication

Independence can be assessed along three dimensions, and the decision affects each differently.

Structural independence concerns the institutional position of the Court. The decision removes the ministry from the organisational line and aligns the Tax Court with the Supreme Court and the courts beneath it. The appointment and dismissal arrangements in Law No. 14 of 2002, which still assign proposing roles to the Minister, remain in the text until amended, so their compatibility with the transferred authority is a matter for implementing legislation (Law No. 14 of 2002, Arts. 8 and 13). A more far-reaching proposal is to reposition the Tax Court explicitly within the constitutional framework, including an amendment to Article 24(2) of the 1945 Constitution so as to separate the Tax Court from the administrative court. That path is more demanding than the Constitutional Court's incremental approach and is realistically a long-term option (Setiyaji & Abdillah, 2024) ^[18].

Functional independence concerns the judge's freedom in examining and deciding cases. Here the decision improves the legal environment but does not change the content of adjudication. The statute already protects judicial freedom against guidance, and the general law obliges judges to maintain the independence of the judiciary (Law No. 14 of 2002, Art. 5(3); Law No. 48 of 2009, Art. 3(1)). Whether this freedom serves substantive justice depends on professional capacity, since the active role of judges in controlling the trial requires deeper competence in tax law than a change in the line of guidance can supply (Setiyaji & Martanto, 2023) ^[19].

Financial independence concerns control of budget and conditions of service. Under the general law, the financial administration of the courts is vested in the Supreme Court

and the state guarantees the security and welfare of judges (Law No. 48 of 2009, Arts. 21(1) and 48). The Tax Court's allowances, however, had been set by ministerial decree, so moving the budget line and the allowance-setting power is an essential part of the transition and not a mere administrative detail (Law No. 14 of 2002, Art. 22(2)).

The transition risks follow from the word "gradually" in the operative part. In the period before consolidation, two institutions will continue to share authority, which reproduces the coordination problem inherent in dual guidance (Yunus, 2023) ^[25]. Personnel, assets, budgets, and the civil-service status of secretariat and registry staff must be transferred without interrupting case handling, and the Court itself directed stakeholders to prepare the regulations and procedural law that the integration requires (Constitutional Court Decision No. 26/PUU-XXI/2023 ^[3], para. 3.13). If remaining executive influence is not removed, the gains of the decision will be incomplete (Khalimi, 2025) ^[21].

On the question whether unification under the Supreme Court guarantees impartiality in practice or only structural alignment, my assessment is that it supplies a necessary precondition and not a sufficient guarantee. The decision cuts the organisational link between the court and the principal litigant's ministry, which is the principal institutional source of the conflict of interest. It does not alter the objection stage, which still takes place within the tax authority (Marmiyati *et al.*, 2025) ^[10]. It does not by itself change recruitment standards or judicial expertise. And it does not resolve the textual disharmonies in Law No. 14 of 2002 that remain until the legislature acts. Substantive impartiality therefore depends on how the transition is regulated and on reforms outside the Court. This reading is more cautious than the view that unification is itself a decisive step toward independence (Regika *et al.*, 2024) ^[16], although it shares the expectation that the transfer can enable fair decisions and legal certainty for the parties (Hanifa *et al.*, 2024) ^[6].

Normative Reconstruction of the Tax Court System Synthesis of Normative Gaps

The analysis of RQ1 and RQ2 yields a set of gaps in access, duration, harmony of norms, and independence. Table 2 summarises each gap, its normative cause, the justice standard it breaches, and the reconstruction proposed in Section 1.3.2.

Table 2: Normative Gaps and Proposed Reconstruction of the Tax Court System

Problem	Normative cause	Justice standard breached	Proposed reconstruction
Divided guidance and ministerial control of the Court	Law No. 14/2002, Arts. 5(2), 8, 22(2), 25, 29(4); conflict with Law No. 48/2009, Arts. 21(1), 39	Independence of judicial power; legal certainty	Complete one-roof transfer through an amended or new Tax Court law, covering appointment, budget, secretariat, and registry
Unclear position of the Court in the judicial system	Silence of Law No. 14/2002; classification only in the elucidation of Law No. 48/2009, Art. 27	Legal certainty; equal treatment among courts	State the position expressly (special court within the administrative jurisdiction) and align supervision, including by the Judicial Commission
Objection decided by the authority that issued the assessment	Tax procedure law	Impartiality; procedural fairness	Review the objection stage: more direct access after assessment or an independent review body
Access conditioned on 50% payment; collection not suspended	Law No. 14/2002, Arts. 36(4), 43	Access to justice; low-cost principle (Law No. 48/2009, Arts. 2(4), 4(2))	Replace the flat rule with a proportionate, security-based, or hardship-sensitive mechanism and a clearer interim-relief standard
Long cumulative duration	Law No. 14/2002, Arts. 44–48, 81	Timeliness; speedy trial	Align intermediate time limits with the decision

and open-ended extensions			deadline; define “special cases”
Limited legal basis for electronic hearings; no consensual route	No provisions in Law No. 14/2002; Law No. 48/2009, Arts. 58–60 limited to civil disputes	Efficiency; accessibility	Add an express legal basis for e-hearings and a regulated settlement or mediation option
Uncertain scope of review after constitutional rulings	Review framework in Law No. 14/2002, Art. 77(3) as affected by later decisions	Legal certainty; balance of party rights	Define a balanced review model for taxpayers and the tax authority

Note: Compiled from Law No. 14 of 2002; Law No. 48 of 2009; Constitutional Court Decision No. 26/PUU-XXI/2023; Syahrin (2021); Donatianus & Rahayu (2024); Usmani *et al.* (2024) ^[3, 4, 20, 24]; Listanti (2025); Marmiyati *et al.* (2025); Yunus (2023) ^[10, 25].

The table shows that the gaps are interrelated. The dualism in guidance (RQ2) and the proximity of the objection stage to the tax authority (RQ1) are two expressions of the same pattern of institutional closeness between the dispute resolver and the disputing party, and the lack of explicit positioning only amplifies it (Syahrin, 2021) ^[20]. The access and duration problems, by contrast, arise from specific procedural choices that can be adjusted without institutional restructuring.

Reconstruction Proposals

A level-2 heading must be in *Italic*, left-justified and numbered using an uppercase alphabetic letter followed by a period. For example, see heading “C. Section Headings” above.

Harmonisation of statutes. The first priority is to bring Law No. 14 of 2002 into line with Law No. 48 of 2009 and with the operative part of Decision No. 26/PUU-XXI/2023 ^[3]. Because the decision directs gradual implementation, the reform should be undertaken through an amended or replacement Tax Court law, accompanied by consequential changes to the tax procedure law, so that overlaps between the institutional statute and the procedural tax laws are removed. The amended law should state the Tax Court’s position as a special court within the administrative jurisdiction, specify that organisation, administration, and finance rest with the Supreme Court, and replace the ministerial roles in appointment, dismissal, allowances, and staffing with procedures that run through the Supreme Court and, for supervision of conduct, the Judicial Commission (Law No. 48 of 2009, Arts. 21(1), 27, and 40). Coordination between the Supreme Court and the Ministry of Finance should be formalised for the interim, so that the benefits of a variety of approaches are kept and the conflict and waste associated with dual guidance are avoided (Yunus, 2023) ^[25]. A longer-term constitutional step would give the Tax Court explicit footing in the constitutional text, which complements and does not replace statutory harmonisation (Setiyaji & Abdillah, 2024) ^[18].

Strengthening procedural fairness and access. The payment requirement should be reconsidered. The fifty-percent rule rests on the legislature’s concern for revenue security (Law No. 14 of 2002, Art. 36(4) and its elucidation), but it conflicts with the principle that justice should be accessible at reasonable cost, so a graduated mechanism, in which payment may be replaced by security or reduced where hardship is shown, would reconcile the two aims. The suspension standard for collection should be clarified with criteria that make interim relief predictable (Law No. 14 of 2002, Art. 43(4)). Electronic hearings should be given an express legal basis, since limited regulation is a recognised threat to the E-Tax Court, and explicit authorisation would also reduce the geographic burden of a court that sits in the capital (Donatianus & Rahayu, 2024) ^[4]. The transparency

of decisions should follow the general duty to give the public access to information on decisions and costs (Law No. 48 of 2009, Art. 52(1)). The objection stage should be reviewed in the direction of simplifying the procedure so that taxpayers can reach the Court more directly after the assessment (Marmiyati *et al.*, 2025) ^[10], or of establishing an independent agency separate from the authority that issues the assessment (Ardin, 2023) ^[2]. A regulated, voluntary settlement or mediation stage could also be introduced, provided it respects the public-law character of tax and does not erode the revenue interest of the state (Usmani *et al.*, 2024) ^[24].

Temporal certainty. The sequence of intermediate time limits in Articles 44 to 48 should be reconciled with the decision deadline in Article 81, and the open-ended notion of “special cases” in the extension provision should be replaced with defined criteria and a requirement that the Chair record reasons for any extension (Law No. 14 of 2002, Arts. 44–48 and 81). Case-management rules, such as scheduling conferences and limits on repeated postponements, could be adopted through the Supreme Court’s regulatory authority.

Securing the transition. Because the Constitutional Court ordered a gradual transfer by a fixed date, transitional provisions are as important as the final rules. They should ensure continuity of pending cases, preservation of the status and rights of judges, registry, and secretariat personnel, orderly transfer of budget and assets, and clarity about which institution decides in the interim. The earlier transformation of the dispute settlement agency into the Tax Court included a transitional chapter that preserved pending cases and the terms of sitting officials, which offers a drafting precedent (Law No. 14 of 2002, Arts. 94–95).

A balanced review model. The scope of case review should be clarified so that neither taxpayers nor the tax authority face an asymmetry that undermines certainty. A regulatory model that balances the rights of both sides, supports state revenue, and offers a means to correct judicial error is the appropriate direction (Listanti, 2025) ^[21]. The statutory grounds for review are narrow, so a revised framework should state clearly who may seek review and on what grounds (Law No. 14 of 2002, Art. 91).

Judicial capacity. Finally, because the substantive justice achieved depends on the judge’s role as an active controller of the trial, recruitment, training, and the use of *ad hoc* judges with specialised expertise should be treated as part of the reconstruction and not as an afterthought (Setiyaji & Martanto, 2023) ^[19]. The statutes already provide a basis for such appointments (Law No. 14 of 2002, Art. 9(2)–(3); Law No. 48 of 2009, Art. 32).

Implications and Limitations

Theoretical implications. The analysis supports a justice-based assessment framework with four linked lenses:

structural independence (who controls the court), procedural fairness (how disputes are conducted and what conditions attach to access), temporal certainty (how long the path is and how firm the deadlines are), and substantive adjudication (how the judge uses the powers conferred). Reforms that address only one lens, such as the transfer of guidance to the Supreme Court, are necessary but incomplete, which accords with the view that structural separation from the executive is a step toward, and not the end of, judicial independence (Regika *et al.*, 2024) ^[16]. The framework also shows why the classic conflict-of-norm doctrines must be combined with constitutional principle when the conflict concerns the institutional foundations of judicial power.

Practical implications. For legislators, the findings call for an integrated amendment of the Tax Court law, the tax procedure law, and transitional provisions. For the Ministry of Finance, they call for a review of the objection process and an orderly handover of the administrative functions it has exercised over the Court (Marmiyati *et al.*, 2025) ^[10]. For the Supreme Court, they call for regulations on organisation, budget, appointment, case management, and electronic proceedings (Donatianus & Rahayu, 2024) ^[4]. For taxpayers and practitioners, they clarify which procedural rights are firmly protected (hearing, evidence, reasoned decision) and which depend on conditions (payment, short filing windows) that merit attention in litigation strategy and in advocacy for reform.

Limitations. This study is doctrinal. It relies on statutory texts, a Constitutional Court decision, and scholarly literature, and for the scholarly sources it draws on the findings reported in the studies' abstracts and not on the full text of their data. It does not use empirical data on case volumes, durations, or outcomes, so claims about actual delay are drawn from the normative framework and from the literature on the objection stage. It does not evaluate implementing regulations or administrative arrangements adopted after the Constitutional Court's decision. Future research could therefore pursue socio-legal and empirical work, including analysis of case-duration data before and after the transfer, interviews with judges, registry staff, tax officials, and taxpayers, and an evaluation of the E-Tax Court in practice. Comparative studies of independent objection bodies and tax-specific ADR, drawing on the experiences of Japan and Pakistan, would also be valuable (Ardin, 2023; Usmani *et al.*, 2024) ^[2, 24].

Conclusions

This study concludes that the Indonesian tax dispute framework secures justice more firmly in its written procedures than in their practical operation. Regarding the first question, the banding and gugatan regimes under Law No. 14 of 2002 guarantee hearing, evidence, reasoned and public decisions, yet access is narrowed by the fifty percent payment requirement and by collection that continues during litigation, while the keberatan stage remains inside the assessing authority and prolongs the dispute. Regarding the second question, Constitutional Court Decision No. 26/PUU-XXI/2023 ^[3] removes the Ministry of Finance from the organisational, administrative, and financial guidance of the Tax Court, to be completed by 31 December 2026, which addresses the structural conflict of interest; however, this alignment is necessary but insufficient for impartiality, since the objection stage, judicial competence, and statutory disharmony with Law No. 48 of 2009 persist. Regarding the

third question, normative reconstruction is required to align the system with justice, legal certainty, and expedient resolution. Legislators should enact an integrated amendment that confirms the Court's position within the administrative jurisdiction, completes the one-roof transfer, and includes transitional safeguards. The Ministry of Finance should reform the objection mechanism toward greater independence or more direct access. The Supreme Court should regulate case management, budget, appointment, and electronic hearings. Lawmakers should also replace the flat payment rule with a proportionate mechanism, define extension grounds, and balance review rights. Future research should apply socio-legal and empirical methods to examine case duration, judicial practice, and taxpayer experience during the post-transfer transition.

Acknowledgment

The authors express their sincere gratitude to the colleagues and reviewers who offered constructive comments and valuable suggestions during the preparation of this article. Appreciation is also extended to the institutions and libraries that provided access to the legal materials and scholarly literature used in this study.

References

1. Anggraeni RRD. The Tax Court's Existence as a Judicial Institution in Indonesia. *SALAM: Jurnal Sosial Dan Budaya* Syar-I, 2023;10(4):1395–1408. <https://doi.org/10.15408/sjsbs.v10i4.35374>
2. Ardin G. Improving Effectiveness and Efficiency of Tax Objection Process: Lesson Learned From Japan. *Indonesian Treasury Review: Jurnal Perbendaharaan, Keuangan Negara Dan Kebijakan Publik*, 2023;8(1):1–15. <https://doi.org/10.33105/itrev.v8i1.520>
3. Constitutional Court Decision. Constitutional Court Decision No. 26/PUU-XXI/2023, 2023.
4. Donatianus TP, Rahayu N. SWOT Analysis of the Implementation of Tax Dispute Administration and Electronic Trials (E-Tax Court) at the Indonesian Tax Court. *Jurnal Public Policy*, 2024;10(3):231. <https://doi.org/10.35308/jpp.v10i3.10317>
5. Hamzani AI, Widyastuti TV, Khasanah N, Rusli MHM. Implementation approach in legal research. *International Journal of Advances in Applied Sciences*, 2024;13(2):380. <https://doi.org/10.11591/ijaas.v13.i2.pp380-388>
6. Hanifa D, Arrisman, Haryanto I. The Existence of Tax Courts in Indonesia From the Colonial Era, Independence, to Reformation. *Asian Journal of Social and Humanities*, 2024;2(7):1461–1470. <https://doi.org/10.59888/ajosh.v2i7.279>
7. Ibnuususilo E, Shalihah F, Istiani N, Azizah FN. Legal discovery in Indonesia's tax dispute framework. *Journal of Human Rights, Culture and Legal System*, 2025;5(1):319–350. <https://jhcls.org/index.php/JHCLS/article/view/496>
8. Khalimi K. The Role of The Tax Court in The Judicial System: Implications of Constitutional Court Decision No. 26/PUU-XII/2023 For Tax Law. *Jurnal Akta*, 2025;12(4):1060. <https://doi.org/10.30659/akta.v12i4.48331>
9. Listanti VD. Legal Certainty of Filing Judicial Review in Tax Dispute Resolution After the Constitutional Court Decision No. 24/PUU-XXI/2024. *Jurnal*

- Indonesia Sosial Sains,2025:6(1):286–299.
<https://doi.org/10.59141/jiss.v6i1.1549>
10. Marmiyati M, Hien UKK, Slamet JM H, Ka PS, Prasetyo P, Kustanto A. Improving Efficiency in Indonesia's Tax Objection Process: Reducing Bureaucracy and Enhancing Access to the Tax Court. *Law Development Journal*,2025:7(1):97.
<https://doi.org/10.30659/ldj.7.1.97-109>
 11. Moningka YC, Rasji R. The Position of the Tax Court in the Indonesian Judicial System After the Decision of the Constitutional Court Number 26/PUU-XXI/2023. *Rechtsnormen: Journal of Law*,2023:1(1):1–8.
<https://doi.org/10.55849/rjl.v1i1.318>
 12. Negara DS, Husban H, Nainggolan SDP, Lufsiana L. Reorganization Of The Tax Court Within The State Administrative Court Post Constitutional Court Decision NO 26/PUU-XXI/2023. *IBLAM LAW REVIEW*,2023:3(2):234–241.
<https://doi.org/10.52249/ilr.v3i2.323>
 13. Negara TAS. Normative legal research in Indonesia: Its originis and approaches. *Audito Comparative Law Journal (ACLJ)*,2023:4(1):1–9.
<https://doi.org/10.22219/aclj.v4i1.24855>
 14. Nugroho HI, Lestari N, Rasji R. Legal Protection Efforts for Taxpayers in the Tax Dispute Resolution Mechanism. *QISTINA: Jurnal Multidisiplin Indonesia*,2023:2(2):839–845.
<https://doi.org/10.57235/qistina.v2i2.811>
 15. Putra DM. Data Mining Innovation to Predict the Duration of Tax Disputes: A Case Study in Indonesia. *Scientax: Jurnal Kajian Ilmiah Perpajakan Indonesia*,2025:7(1):1–15.
<https://doi.org/10.52869/st.v7i1.1006>
 16. Regika V, Sari M, Muhkam MF, Amir I. The Strengthening of Tax Court Independence in the Indonesian Judicial System. *Jurnal Cakrawala Hukum*,2024:15(1):80–90.
<https://doi.org/10.26905/idjch.v15i1.14276>
 17. Sasanti DN, Indah HTK. Problematika penyelesaian sengketa di Pengadilan Pajak dalam rangka perwujudan peradilan sederhana, cepat, dan biaya ringan: The problem of disputes settlement at the tax court in realizing a simple, fast, and low cost judiciary context. *Reformasi Hukum*,2022:26(1):21–38.
<https://doi.org/10.46257/jrh.v26i1.256>
 18. Setiyaji G, Abdillah A. Repositioning the Tax Court Within Indonesia's Constitutional Framework: Judicial Independence and Institutional Reform. *Lex Publica*,2024:11(2):275–293.
<https://doi.org/10.58829/lp.11.2.2024.273>
 19. Setiyaji G, Martanto T. The Role Of Dominus Litis Of Tax Court Judges In Realizing Substantive Justice In Tax Dispute Resolution. *Jurnal Hukum Unissula*,2023:41(2):236–252.
<https://doi.org/10.26532/jh.v41i2.44105>
 20. Syahrin MA. Critical Study Of The Tax Justice System In Indonesia. *Ejournal.Uin-Suska.Ac.Id*,2021:2(2):138–150. <https://doi.org/10.24014/jot.v2i2.14824>
 21. Tjahjadi H, Suhariyanto D, Iryani D. Taxpayer Protection Against Administrative Sanctions In The Fair Tax Dispute Objection And Appeal Process. *Ilmu Hukum Prima (IHP)*,2025:8(2):140–147.
<https://doi.org/10.34012/jihp.v8i2.7667>
 22. Undang-Undang Republik Indonesia. Undang-undang (UU) Nomor 14 Tahun 2002 tentang Pengadilan Pajak, 2002. <https://peraturan.bpk.go.id/Details/44449/uu-no-14-tahun-2002>
 23. Undang-Undang Republik Indonesia. Undang-Undang Nomor 48 Tahun 2009 tentang Kekuasaan Kehakiman, 2009. <https://peraturan.bpk.go.id/Details/38793/uu-no-48-tahun-2009>
 24. Usmani MB, Qaiser K, Qaiser Z, Bashir MI, Abbas Z. Alternative dispute resolution for resolving tax related disputes. *Law Research Journal*,2024:2(4):81–92.
<https://doi.org/10.15294/pandecta.v19i2.9593>
 25. Yunus NR. State Institutional Law: Dualism in the Development of the Tax Court in Indonesia Between the Supreme Court and the Ministry of Finance. *STAATSRECHT: Indonesian Constitutional*,2023:7(1):1–36.
<https://doi.org/10.15408/siclj.v7i1.35454>